

IN THE UNITED STATES DISTRICT COURT FOR THE
SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION

UNITED STATES COURTS
SOUTHERN DISTRICT OF TEXAS
FILED

AUG 1 2006

MICHAEL H. KELBY, CLERK OF COURT

BYRON GEOVANI SAY ALVAREZ, RENE §
BAUTISTA, CRUZ GUARCHAJ §
CAJTUNAJ, ELICEO BERNABE CHOX §
CARRILLO, JEREMIAS CHILEL §
CRUZ, JOEL ARMANDO RIVAS DELGADO, §
ALEJANDRO FLORES, JOSE SANTOS §
FUENTES, ANGEL GONZALEZ GARCIA, §
CANDIDO VALENTIN GARCIA, JORGE §
FUENTES GILBERTO, JOSE LUIS §
RODRIGUEZ GONZALEZ, CRISTOBAL §
ORDONEZ GUARCHAJ, DAVID ROLAND §
GUTIERREZ, HILARIO HUMBERTO §
MARTIN HERNANDEZ, JUAN FELIPE §
MARTINEZ, GABRIEL MORALES, §
GUADALUPE FELIPE OLIVERA, JORGE §
LOPEZ PEREZ, MOYZES REYNOZO, §
REYNEL REYNOZO, BERSABE DEJESUS §
SANTOS RIVERA, MIRZA NOELIA §
RODRIGUEZ, MANUEL ROVELIO, §
SALVADOR HERNANDEZ SANCHEZ, §
LEOPOLDO LOPEZ TEXCO, MIGUEL §
VASQUEZ §

Plaintiffs

VS.

U.S. VIET HOA FOOD CORP. D/B/A §
VIET HOA INTERNATIONAL FOODS AND §
U.S. VIET HOA FOOD CORP. D/B/A §
KINGSWAY CHINESE BUFFET AND §
RESTAURANT §

Defendants

CIVIL ACTION NO. **H-06-2545**

PLAINTIFFS' ORIGINAL COMPLAINT

TO THE HONORABLE JUDGE OF SAID COURT:

COME NOW, BYRON GEOVANI SAY ALVAREZ, RENE BAUTISTA, CRUZ

Ch 6312

GUARCHAJ CAJTUNAJ, ELICEO BERNABE CHOX CARRILLO, JEREMIAS CHILEL, ANTONIO CRUZ, JOEL ARMANDO RIVAS DELGADO, ALEJANDRO FLORES, JOSE SANTOS FUENTES, ANGEL GONZALEZ GARCIA, CANDIDO VALENTIN GARCIA, JORGE FUENTES GILBERTO, JOSE LUIS RODRIGUEZ GONZALEZ, CRISTOBAL ORDONEZ GUARCHAJ, DAVID ROLAND GUTIERREZ, HILARIO HUMBERTO MARTIN HERNANDEZ, JUAN FELIPE MARTINEZ, GABRIEL MORALES, GUADALUPE FELIPE OLIVERA, JORGE LOPEZ PEREZ, MOYZES REYNOZO, REYNEL REYNOZO, BERSABE DEJESUS SANTOS RIVERA, MIRZA NOELIA RODRIGUEZ, MANUEL ROVELIO, SALVADOR HERNANDEZ SANCHEZ, LEOPOLDO LOPEZ TEXCO, MIGUEL VASQUEZ, hereinafter referred to as Plaintiffs, and files this their Original Complaint, complaining of U.S. VIET HOA FOOD CORP. D/B/A VIET HOA INTERNATIONAL FOODS AND U.S. VIET HOA FOOD CORP. D/B/A KINGSWAY CHINESE BUFFET AND RESTAURANT, hereinafter referred to as Defendants, and in support thereof would respectfully show unto the Court as follows:

A.
PARTIES

1. Plaintiff BYRON GEOVANI SAY ALVAREZ is a resident of Houston, Texas.
2. Plaintiff RENE BAUTISTA is a resident of Houston, Texas.
3. Plaintiff CRUZ GUARCHAJ CAJTUNAJ is a resident of Houston, Texas.
4. Plaintiff ELICEO BERNABE CHOX CARRILLO is a resident of Houston, Texas.
5. Plaintiff JEREMIAS CHILEL is a resident of Houston, Texas.
6. Plaintiff ANTONIO CRUZ is a resident of Houston, Texas.

7. Plaintiff JOEL ARMANDO RIVAS DELGADO is a resident of Houston, Texas.
8. Plaintiff ALEJANDRO FLORES is a resident of Houston, Texas.
9. Plaintiff JOSE SANTOS FUENTES is a resident of Houston, Texas.
10. Plaintiff ANGEL GONZALEZ GARCIA is a resident of Canoga Park, California.
11. Plaintiff CANDIDO VALENTIN GARCIA is a resident of Houston, Texas.
12. Plaintiff JORGE FUENTES GILBERTO is a resident of Houston, Texas.
13. Plaintiff JOSE LUIS RODRIGUEZ GONZALEZ is a resident of Houston, Texas.
14. Plaintiff CRISTOBAL ORDONEZ GUARCHAJ is a resident of Houston, Texas.
15. Plaintiff DAVID ROLAND GUTIERREZ is a resident of Houston, Texas.
16. Plaintiff HILARIO HUMBERTO MARTIN HERNANDEZ is a resident of
Houston, Texas.
17. Plaintiff JUAN FELIPE MARTINEZ is a resident of Houston, Texas.
18. Plaintiff GABRIEL MORALES is a resident of Houston, Texas.
19. Plaintiff GUADALUPE FELIPE OLIVERA is a resident of Houston, Texas.
20. Plaintiff JORGE LOPEZ PEREZ is a resident of Houston, Texas.
21. Plaintiff MOYZES REYNOZO is a resident of Houston, Texas.
22. Plaintiff REYNEL REYNOZO is a resident of Houston, Texas.
23. Plaintiff BERSABE DEJESUS SANTOS RIVERA is a resident of Houston,
Texas.
24. Plaintiff MIRZA NOELIA RODRIGUEZ is a resident of Houston, Texas.
25. Plaintiff MANUEL ROVELIO is a resident of Jacksonville, Florida.
26. Plaintiff SALVADOR HERNANDEZ SANCHEZ is a resident of Houston, Texas.

27. Plaintiff LEOPOLDO LOPEZ TEXCO is a resident of Houston, Texas.

28. Plaintiff MIGUEL VASQUEZ is a resident of Houston, Texas.

29. Defendant, U.S. VIET HOA FOOD CORP. D/B/A VIET HOA INTERNATIONAL FOODS is a corporation that is incorporated under the laws of the State of Texas. Defendant has its principal place of business in the State of Texas. Defendant may be served with process by serving its registered agent, Larry P. Ross, 3903 Bellaire Blvd., Suite C, Houston, Texas 77025.

30 Defendant U.S. VIET HOA FOOD CORP. D/B/A KINGSWAY CHINESE BUFFET AND RESTAURANT is a corporation that is incorporated under the laws of the State of Texas. Defendant has its principal place of business in the State of Texas. Defendant may be served with process by serving its registered agent, Larry P. Ross, 3903 Bellaire Blvd., Suite C, Houston, Texas 77025.

B.
JURISDICTION

31. The Court has jurisdiction over the lawsuit because the action arises under the Fair Labor Standards Act.

C.
FACTS

32. It has become necessary to bring this lawsuit as a result of violations of the Fair Labor Standards Act. Plaintiffs are and/or have been employees of U.S. VIET HOA FOOD CORP. D/B/A VIET HOA INTERNATIONAL FOODS and/or U.S. VIET HOA FOOD CORP. D/B/A KINGSWAY CHINESE BUFFET AND RESTAURANT. Plaintiffs were hired to work for Defendant U.S. VIET HOA FOOD CORP. D/B/A VIET HOA INTERNATIONAL FOODS

and/or U.S. VIET HOA FOOD CORP. D/B/A KINGSWAY CHINESE BUFFET AND RESTAURANT and perform different job duties. However, most, if not all, of Plaintiffs (at least during part of their employment) were not paid minimum wage, as required by law. Additionally, Defendants U.S. VIET HOA FOOD CORP. D/B/A VIET HOA INTERNATIONAL FOODS and U.S. VIET HOA FOOD CORP. D/B/A KINGSWAY CHINESE BUFFET AND RESTAURANT would have Plaintiffs work approximately 65 -75 hours per week. However, Defendants U.S. VIET HOA FOOD CORP. D/B/A VIET HOA INTERNATIONAL FOODS and U.S. VIET HOA FOOD CORP. D/B/A KINGSWAY CHINESE BUFFET AND RESTAURANT failed to pay Plaintiffs overtime, as required by law. Most of the employees are no longer employed by U.S. VIET HOA FOOD CORP. D/B/A VIET HOA INTERNATIONAL FOODS and/or U.S. VIET HOA FOOD CORP. D/B/A KINGSWAY CHINESE BUFFET AND RESTAURANT.

D.
VIOLATIONS OF THE FAIR LABOR STANDARDS ACT

33. Since September 1, 1997, the federal minimum wage has been set at the rate of \$5.15 per hour. 29 U.S.C. §206(a)(1). Plaintiffs were employees of Defendants and Defendants violated this statute by failing to pay them hourly rates of at least \$5.15 per hour. Additionally, the Fair Labor Standards Act requires employers to pay employees overtime if they work more than 40 hours in a given week, in an amount to at least one and a half times the employee's regular rate of pay. 29 U.S.C. §207(a). However, Defendants failed to pay Plaintiffs at least one and a half times their regular rate of pay for all hours worked over 40 hours in a given week.

34. At all times material hereto, Defendants knew that they were not complying with the Fair Labor Standards Act and Plaintiffs are seeking liquidated damages, as allowed by law, in addition to all other damages. The Defendants are guilty of violations of the Fair Labor Standards Act. All of the acts described above, proximately caused the Plaintiffs' resulting damages. Nothing Plaintiffs did, or did not do, contributed to their damages.

E.
DAMAGES

35. Upon trial of this cause, it will be shown that Plaintiffs were caused to sustain damages as a proximate result of Defendants' negligence and intentional acts; and Plaintiffs will respectfully request a Court and Jury to determine the amount of the loss Plaintiffs incurred in the past and will incur in the future, not only from a financial standpoint, but also in terms of good health and freedom from pain and worry. There are certain elements of damages provided by law, that Plaintiffs are entitled to have the Jury in this case separately consider to determine the sum of money for each element that will fairly and reasonably compensate Plaintiffs for their damages and losses incurred, and to be incurred by Plaintiffs. From the date of the incident in question until the time of trial of this matter, the elements of damages to be considered separately and individually for the purposes of determining the sum of money that will fairly and reasonably compensate Plaintiffs for each element are as follows:

1. All wages owed to Plaintiffs for Defendants failure to pay minimum wage from the date of hire up to the time of trial, or date of termination, whichever comes first;

2. All wages owed to Plaintiffs for Defendants failure to pay overtime from the date of hire up to the time of trial, or date of termination, whichever comes first;
3. Liquidated damages and all other statutory damages, as allowed by law;
4. Attorneys fees; and
5. Court costs.

F.
ATTORNEY FEES

36. As a result of having to file this lawsuit, Plaintiffs had to hire the undersigned law firm to represent them. Plaintiffs therefore also seek recovery of all reasonable and necessary attorneys fees in trying this lawsuit, and appealing this case, should such become necessary in the future.

G.
INTEREST

37. Because of the damages sustained by Plaintiffs in the occurrence made the basis of this suit, this cause is maintained. Specifically, Plaintiffs plead actual damages in excess of the jurisdictional limits of this Court. Plaintiffs further plead for pre-judgment and post-judgment interest, attorneys' fees and liquidated damages.

WHEREFORE, PREMISES CONSIDERED, Plaintiffs pray that citation be issued and served upon the Defendants herein, and that upon final trial or hearing of this cause, that judgment be rendered as prayed for herein, that Plaintiffs be awarded actual damages, liquidated dates, attorneys fees, and that the judgment bear interest at the maximum rate allowed by law, both pre-judgment and post-judgment, that costs of court be taxed against the Defendants, and for such other and further relief, at law and in equity, to which the Plaintiffs may be justly entitled.

Respectfully submitted,

SEARS ★ CRAWFORD, L.L.P.

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